

**IN THE
SUPREME COURT OF INDIANA**

CASE NUMBER:

**ORDER AMENDING RULES FOR ADMISSION TO THE BAR AND
THE DISCIPLINE OF ATTORNEYS**

Under the authority vested in this Court to provide by rule for the procedure employed in all courts of this state and this Court's inherent authority to supervise the administration of all courts of this state, Rules 3, 6, 14, 15, 22, 23, and 29 of the Indiana Rules for Admission to the Bar and the Discipline of Attorneys are amended to read as follows (deletions shown by ~~striking~~ and new text shown by underlining):

**INDIANA RULES FOR ADMISSION TO
THE BAR
AND THE
DISCIPLINE OF ATTORNEYS**

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Rule 3. Admission of Attorneys

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Section 2. Limited Admission on Petition.

(a) Requirements for Limited Admission on Petition.

The Supreme Court, the Court of Appeals, the Tax Court, or a trial court, of this state, in the exercise of discretion, may permit a ~~A~~ member of the bar of another state or territory of the United States, or the District of Columbia, to ~~may~~ appear in ~~the Supreme Court, the Court of Appeals, the Tax Court, or the trial courts of this state in~~ any particular proceeding, if the court before which the attorney wishes to appear determines that there is good cause for such appearance and each of the following conditions is met:

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Rule 6. Admission on Foreign License

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Section 4. Renewal of Provisional License and Business License

A provisional license admission on a foreign license may continue in force for one year, and may be renewed for a like period upon the submission of such verified individualized information as will demonstrate to the satisfaction of the Board that the applicant has during the past year been both (a) engaged in the practice of law as defined in Section 1(a), and (b) predominantly in Indiana. Each application for renewal of provisional license admission shall be accompanied by a fee of fifty dollars (\$50.00). Upon the fifth consecutive renewal of the provisional license granted to the applicant, the admission to practice shall be permanent.

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Rule 14. Review

Review of final action by the State Board of Law Examiners shall be as follows:

~~Section 1. No appeal to the State Board of Law Examiners shall be permitted upon the failure of the applicant to pass the first or second examination; and no appeal to the Supreme Court shall be permitted upon the failure of the applicant to pass the first or second examination.~~

~~Section 2. The State Board of Law Examiners shall adopt such procedure for review of an applicant, aggrieved by failure of said board to award said applicant a satisfactory grade upon any third examination, as shall be approved by the Supreme Court of Indiana; and no appeal to the Supreme Court shall be permitted upon the failure of the applicant to pass the third examination.~~

~~Section 3. The State Board of Law Examiners shall adopt such procedure for review of an applicant, aggrieved by failure of said board to award said applicant a satisfactory grade upon the fourth or fifth bar examination, as shall be approved by the Supreme Court of Indiana. Any applicant aggrieved by the final review action of said board, in refusing to recommend to the Supreme Court of Indiana the admission of the applicant to practice law in Indiana by reason of applicant's failure to pass the written examination upon the fourth or fifth examination, may within twenty (20) days of such final determination by said board, file a petition with said board for review of the same by the Supreme Court; whereupon, the Executive Director of said board shall, within five (5) days thereafter, transmit to the Supreme Court, the file relating to such applicant's written examination, including the transcript of record of all actions by the State Board of Law Examiners relating thereto, and the Court shall enter such order as in its judgment is proper, which shall thereupon become final. All applicants who have achieved a~~

combined scaled score of 255 to 263 shall be eligible to appeal. The eligible examinees must make a written request to appeal on forms provided by the Board within fourteen (14) days of the date of mailing by the Board of the eligible examinee's results. No response other than the written request to appeal is permitted. The President of the Board shall designate certain of the Board's members as "Appeals Reviewers." The Appeals Reviewers shall consider and decide all appeals of bar examination results. In the appeals process, all of an eligible examinee's responses shall be subject to review by the Appeals Reviewers. Multistate Bar Examination scores will also be available to the Appeals Reviewers. Eligible examinees that are deemed to have passed after review shall be treated as having passed that administration of the Indiana Bar Examination. No change in score shall be effectuated. The determination by the Appeals Reviewers whether to treat an appealing applicant as having passed the bar examination shall be final, subject to general principles of procedural due process.

Section-4 2. Any applicant aggrieved by the final action of the State Board of Law Examiners in refusing to recommend to the Supreme Court of Indiana the admission of the applicant to practice law in Indiana for any reason other than the failure to pass any examination as set forth in sections (1), ~~(2), and (3)~~ may, within twenty (20) days of receipt of notification setting forth the reason for refusal, which notice shall be sent to the applicant by certified mail with return receipt requested, file a petition with the Supreme Court of Indiana requesting review by this Court of such final determination, and setting forth specifically therein the reasons, in fact or law, assigned as error in the Board's determination, and the Court may order further consideration of the application, in which event the State Board of Law Examiners shall promptly transmit to the Court the complete file relating to such applicant and his or her application, including the transcript of the record of any hearing held by the State Board of Law Examiners relating thereto, and the Court shall enter such order as in its judgment is proper, which shall thereupon become final. The petition for review must be accompanied by a fifty dollar (\$50.00) filing fee unless the petitioner previously paid an application fee to the State Board of Law Examiners as provided in these rules.

Rule 15. Applications, Filing Dates and Fees for Examination and Re-Examination

Application for admission on first examination must be made on forms prescribed by the State Board of Law Examiners and filed with the Executive Director of the Board. The application shall be in such form and shall request such information as may be required by the Board of Law Examiners. Form applications shall be prepared by the State Board of Law Examiners and furnished to applicants upon request. The Board of Law Examiners may require additional information as is deemed by it to be necessary.

An affidavit of the dean of the applicant's law school, or the dean's designee, to the effect that there is nothing in the school records or personal knowledge of the dean or faculty of such school to indicate that the applicant is not of good moral character or that

the applicant is not fit for admission to the practice of law must be filed with the State Board of Law Examiners. The Board shall provide forms for such certification.

A certified transcript of the law school record of the applicant showing the date of graduation and the degree conferred must be filed with the Board of Law Examiners before the applicant can be admitted to the bar.

Filing of applications may be made by personal delivery to the office of the Board of Law Examiners or by regular, certified or registered United States mail. If filing is made by personal delivery, the date of filing is determined by the date of the Received stamp of the Board office. If filing is made by mail, the application shall be deposited in the United States mail with postage prepaid. The United States mail postmark will determine the filing date. Facsimile filing is not permitted. No requests for filing past the stated deadlines or for waiver of filing deadlines will be accepted by the Board of Law Examiners or by the Supreme Court.

Applications for admission on first examination for the July examination must be filed by April 1, and accompanied by a filing fee of two hundred fifty dollars (\$250). A late filing period is permitted until April 15. The filing fee for late filing is five hundred dollars (\$500).

The deadline filing date for the February examination is November 15 of the previous year. The filing fee is two hundred fifty dollars (\$250). The late filing period is from that date to November 30 of the previous year. The late filing fee is five hundred dollars (\$500).

If an applicant fails to pass the first examination and is permitted to take further examinations, the application for re-examination must be made on forms prescribed by the Board and filed with the Executive Director by the following dates. Applications for re-examination for the July examination must be filed by May 30 and accompanied by a filing fee of two hundred fifty dollars (\$250). The late filing deadline is June 15 and the late filing fee is five hundred dollars (\$500). Applications for re-examination for the February examination must be filed by December 15 of the previous year. The regular filing fee is two hundred fifty dollars (\$250). The late filing deadline is December 30 of the previous year. The late filing fee is five hundred dollars (\$500).

There are no other provisions for or consideration of requests for late filing by the Board or by the Indiana Supreme Court.

Applicants who have a petition before the Board or an appeal before the Supreme Court of the grading of their examination will be required to meet all filing deadlines for re-examination. If an applicant is successful on petition or on appeal, the applicant will receive a full refund of any re-examination fee.

If an applicant whose application has been approved and processed fails to take the examination first following its approval, such applicant shall have the privilege of

having that application held in abeyance and of taking the next regularly scheduled examination given by the Board without payment of any additional fee. Any applicant whose application has been approved and processed who fails to take that examination, or the next following examination, shall have that application dismissed. The applicant will be entitled to a refund of one-half (1/2) of the fee paid.

If an applicant applies to sit for a first examination after his or her application has been dismissed, a new application must be filed and a two hundred fifty dollar (\$250) filing fee must be paid and the first examination deadlines must be met. If an applicant applies to sit for a re-examination after his or her application has been dismissed, a new application must be filed and a two hundred fifty dollar (\$250) filing fee must be paid, but these applicants will be permitted to file by the re-examination time deadline and will have the opportunity to file within that late filing period. All applicants applying after dismissal must meet the regular deadlines or late filing deadlines and pay the regular fee or the late fee as they apply to those deadlines.

~~No applicant shall be admitted to more than five (5) examinations.~~

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Rule 22. Oath of Attorneys

Upon being admitted to practice law in the state of Indiana, each applicant shall take and subscribe to the following oath or affirmation:

"I do solemnly swear or affirm that: I will support the Constitution of the United States and the Constitution of the State of Indiana; I will maintain the respect due to courts of justice and judicial officers; I will not counsel or maintain any action, proceeding, or defense which shall appear to me to be unjust, but this obligation shall not prevent me from defending a person charged with crime in any case; I will employ for the purpose of maintaining the causes confided to me, such means only as are consistent with truth, and never seek to mislead the court or jury by any artifice or false statement of fact or law; I will maintain the confidence and preserve inviolate the secrets of my client at every peril to myself; I will abstain from offensive personality and advance no fact prejudicial to the honor or reputation of a party or witness, unless required by the justice of the cause with which I am charged; I will not encourage either the commencement or the continuance of any action or proceeding from any motive of passion or interest; I will never reject, from any consideration personal to myself, the cause of the defenseless, or the oppressed or those who cannot afford adequate legal assistance; so help me God."

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Rule 23. Disciplinary Commission and Proceedings

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Section 4. Reinstatement

(a) A person who has been suspended from the practice of law may petition for reinstatement when the term of suspension prescribed in the order of suspension has elapsed. A person who has resigned as a member of the bar may petition for reinstatement when five (5) years have elapsed since the date of the order accepting the resignation. If costs have been imposed as part of an order of suspension or an order accepting an affidavit of resignation, those costs must be paid before a petition for reinstatement is filed.

(b) A petition for reinstatement may be granted if the petitioner establishes by clear and convincing evidence before the disciplinary commission of this Court that:

- (1) The petitioner desires in good faith to obtain restoration of his privilege to practice law;
- (2) The petitioner has not practiced law in this State or attempted to do so since he or she was disciplined;
- (3) The petitioner has complied fully with the terms of the order for discipline;
- (4) The petitioner's attitude towards the misconduct for which he or she was disciplined is one of genuine remorse;
- (5) The petitioner's conduct since the discipline was imposed has been exemplary and above reproach;
- (6) The petitioner has a proper understanding of and attitude towards the standards that are imposed upon members of the bar and will conduct himself or herself in conformity with such standards;
- (7) The petitioner can safely be recommended to the legal profession, the courts and the public as a person fit to be consulted by others and to represent them and otherwise act in matters of trust and confidence, and in general to aid in the administration of justice as a member of the bar and an officer of the Courts;
- (8) The disability has been removed, if the discipline was imposed by reason of physical or mental illness or infirmity, or for use of or addiction to intoxicants or drugs;
- (9) The petitioner has taken ~~and passed~~ the Multistate Professional Responsibility Examination (MPRE) within six (6) months before or after the date the petition for reinstatement is filed and passed with a scaled score of eighty (80). ~~The MPRE shall be taken after the term of suspension or resignation has elapsed, and after the suspended or resigned attorney has met the requirements of Section 26 of this Rule. However, if the period of suspension is for one (1) year or less, the MPRE may be taken within six (6) months of the date the petition for reinstatement is filed.~~

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Section 18. Petitions for Reinstatement

(a) A person who has been suspended from the practice of law under the provisions of this rule, except pursuant to Section 11.1(c) of this rule, may apply for reinstatement by filing with the Clerk of this Court a petition conforming with setting forth that the requirements of Section 4 of this rule ~~have been complied with~~. Nine (9) copies of such petition shall be filed with the Clerk of this Court, together with a filing fee of \$500.00.

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Section 21. Annual Registration Fee

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(k) An attorney in good standing and who is not the subject of an investigation into, or a pending proceeding involving, allegations of misconduct, who desires to relinquish permanently his or her license to practice law in the State of Indiana may do so by petitioning the Supreme Court and filing an Affidavit of Permanent Withdrawal from the practice of law in this State. An attorney whose petition is granted shall not be eligible for reinstatement under section (e) or (f), but may apply for admission under Admission and Discipline Rule 3 through 21.

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Rule 29. Mandatory Continuing Legal Education

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SECTION 2. DEFINITIONS

(m) *Distance Education* shall mean instructional delivery that does not constrain the student to be physically present in the same location as the instructor and does not require an attendant at the learning site to monitor attendance.

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Mandatory Continuing Legal Education Guidelines

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SECTION 3. ACCREDITATION POLICIES.

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(b) Approval of Other Educational Activities.

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(iv.) Approved In-house education. In-house programs include those primarily designed for the exclusive benefit of attorneys employed by a private organization or law firm. In-house programs also include those programs presented only to those attorneys and/or their clients, even if the program was not designed for those attorneys. Attorneys within related companies are considered to be employed by the same organization or law firm for purposes of this rule. In-house education programs may become approved where the education is provided by a judge, attorney or sponsor of legal education who is not a

member, employee or acting of counsel of the participating organization or law firm. In-house CLE is subject to the following limitations and requirements:

(a.) Limited credit may be given for courses taught in-house. Non-governmental or non-academic attorneys may report up to three hours per three-year educational period for in-house programs that have been accredited by the Commission. Governmental or academic attorney employees may receive unlimited CLE for these courses sponsored by their employers for the exclusive benefit of their attorney employees.

(b.) To be accredited, the attorney or sponsor must apply for accreditation at least 30 days before the course is presented, using an Application for Accreditation. Additionally, the sponsor or attorney must demonstrate the facts set forth in paragraph vi below. ~~that:~~

~~1. the course is designed for and targeted to attorneys or judges;~~

~~2. continuing attendance is monitored and evidence of continuing attendance and/or participation is provided by the sponsor to the Commission in conformance with such guidelines as the Commission may develop;~~

~~3. the sponsor will provide a certificate of continuing attendance to the Commission;~~

~~4. the program meets standards of educational is high quality;~~

~~5. the course has substantial legal content (non legal subject (NLS) credit is not available through in house programs);~~

~~6. the course deals with matters related directly to the practice of law or the professional responsibility of Attorneys or Judges;~~

~~7. each faculty member who has teaching responsibility in the course is qualified by academic work or practical experience to teach the assigned subject;~~

~~8. high quality written materials are available either through paper format or electronic format to accompany the instruction either at or prior to the time the course is offered;~~

~~9. the sponsor will allow the Commission and its Executive Director to audit the course for regulation purposes.~~

(v.) Distance education courses. Limited credit may be given for courses taken through distance education methods. An attorney or judge may receive up to six (6) hours of CLE through interactive distance education during an educational period. To be accredited, the attorney or sponsor must apply for accreditation at least 30 days before the course is presented using an Application for Accreditation. Additionally, the sponsor or attorney must demonstrate the facts set forth in paragraph vi below. ~~that:~~

(vi.) Accreditation of in-house and distance education courses. The sponsor or attorney must demonstrate that:

- a. the course is designed for and targeted to attorneys or judges;
- b. continuing attendance is monitored and evidence of continuing attendance and/or participation is provided by the sponsor to the Commission in conformance with such guidelines as the Commission may develop;
- c. the sponsor will provide a certificate of continuing attendance to the Commission;
- d. in content and style the program meets standards of educational quality as determined by the Commission;
- e. in the case of distance education courses, meaningful technical assistance will be provided at times and in ways reasonable to the attorney-attendee;
- f. the course has substantial legal content (non legal subject credit is not available through in-house programs);
- g. the course deals with matters related directly to the practice of law or the professional responsibility of Attorneys or Judges;
- h. each faculty member who has teaching responsibility in the course is qualified by academic work or practical experience to teach the assigned subject;
- i. high quality written materials are available either through paper format or electronic format to accompany the instruction either at or prior to the time the course is offered;
- j. in the case of distance education courses, the program is not text-based;
- k in the case of distance education courses, either audio or video or both are provided; and,
- l. the sponsor will allow the Commission and its Executive Director to audit the course for regulation purposes.

~~(iv)~~ vii. Credit will be denied for the following activities:

(a) ...

~~(b) In House Program. The Commission shall not approve programs which it determines are primarily designed for the exclusive benefit of Attorneys~~

~~employed by a private organization or law firm. Attorneys within related companies will be considered to be employed by the same organization or law firm for purposes of this rule. However, governmental or academic entities may sponsor programs for the exclusive benefit of their Attorney employees.~~

~~(c) Satellite, microwave, internet, video, or telephone conferences. To be approved courses must provide a discussion leader or two way communication, classroom setting away from the attorneys' offices, opportunity to ask questions, and must monitor attendance.~~

~~(d) (b) Self-study activities.~~

~~(c) ...~~

...(d) Procedure for Attorneys and Judges. An Attorney or Judge may apply for credit of a non-distance education course or non legal subject course either before or after the date on which it is offered. Application for accreditation of a distance education course or in-house course must be made at least 30 days prior to the Course.

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These amendments shall take effect on January 1, 2005.

The Clerk of this Court is directed to forward a copy of this order to the clerk of each circuit court in the state of Indiana; Attorney General of Indiana; Legislative Services Agency and its Office of Code Revision; Administrator, Indiana Supreme Court; Administrator, Indiana Court of Appeals; Administrator, Indiana Tax Court; Public Defender of Indiana; Prosecuting Attorney's Council; Indiana Supreme Court Disciplinary Commission; Indiana Supreme Court Commission for Continuing Legal Education; Indiana Board of Law Examiners; Indiana Judicial Center; Division of State Court Administration; Indiana Judges and Lawyers Assistance Program; the libraries of all law schools in this state; the Michie Company; and the West Group.

The West Group is directed to publish this Order in the advance sheets of this Court.

The Clerks of the Circuit Courts are directed to bring this Order to the attention of all judges within their respective counties and to post this Order for examination by the Bar and general public.

DONE at Indianapolis, Indiana, this _____ day of September, 2004.

Randall T. Shepard
Chief Justice of Indiana

All Justices concur.